

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHANIKKA DAVIS,

Plaintiff,

v.

19-CV-904S(Sr)

NIAGARA COUNTY DEPT. SOCIAL SERVICES,

et al.,

Defendants.

ORDER

This case was referred to the undersigned by the Hon. John L. Sinatra, Jr., pursuant to 28 U.S.C. § 636(b)(1), for all pretrial matters. Dkt. #26.

Plaintiff filed this action, *pro se*, pursuant to 42 U.S.C. § 1983, alleging, *inter alia*, denial of temporary housing assistance and emergency housing because of her race in violation of her Eighth and Fourteenth Amendment rights under the United States Constitution. Dkt. #1.

Defendants filed a motion to dismiss plaintiff's complaint for failure to state a claim on July 18, 2022. Dkt. #27. By letter dated September 22, 2022, defense counsel advised the Court that the motion papers served upon plaintiff by regular mail were returned to sender with a notation that the United States Postal Service was unable to forward. Dkt. #29. The Text Order referring the motion to the undersigned

(Dkt. #26), and the Text Order scheduling the motion (Dkt. #28), were returned to the Court with a similar notation. Dkt. #30 & Dkt. #31. Defense counsel advises the Court that plaintiff was arrested on July 5, 2022 and is currently incarcerated at the Niagara County Correctional Facility. Dkt. #29.

Rule 5.2(d) of the Local Rules of Civil Procedure provides that a party appearing *pro se* must furnish the Court with a current address at which papers may be served and must inform the Court immediately, in writing of any change of address. Plaintiff has not done so. However, because defense counsel has advised that plaintiff is currently incarcerated at the Niagara County Correctional Facility, the Court will afford plaintiff the opportunity to update her address.

The Clerk of the Court is directed to mail a copy of this Order to plaintiff at the Niagara County Correctional Facility, 5526 Niagara Street Ext., Lockport, NY 14095.

Plaintiff shall inform the Court of her updated address and advise the Court whether she wishes to pursue this action no later than **December 2, 2022**.

If plaintiff chooses to proceed, defense counsel shall serve the motion to dismiss upon plaintiff at her updated address and file an affirmation of service with the Court. Plaintiff shall have 60 days from service of the motion papers to respond to defendants' motion to dismiss.

Plaintiff is warned that her failure to abide by this Order may result in dismissal of the case, with prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

SO ORDERED.

DATED: **Buffalo, New York**
November 3, 2022

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge